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14 **UNITED STATES DISTRICT COURT**
15 **DISTRICT OF NEVADA, SOUTHERN DIVISION**

17 FEDERAL TRADE COMMISSION,

18 Plaintiff,

19 v.

20 REVMOUNTAIN, LLC, a Nevada
21 limited liability company, et al., ,

22 Defendants.

Case No. 17-CV-02000-APG-GWF

RESPONSE OF JOSHUA TEEPLE,
PERMANENT RECEIVER, TO
CORPORATE DEFENDANTS'
EMERGENCY MOTION FOR
LIMITED MODIFICATION OF
ASSET FREEZE TO PERMIT
ACCESS TO FUNDS FOR
ATTORNEYS' FEES

The Hon. Andrew P. Gordon

25 Joshua Teeple, Permanent Receiver ("Receiver"), herewith submits his
26 response to the Corporate Defendants' Emergency Motion for Limited Modification
27 of Asset Freeze to Permit Access to Funds for Attorneys' Fees ("Motion"), and
28

1 states as follows:

2 1. Joshua Teeple is the duly appointed, qualified and acting Permanent
3 Receiver pursuant to this Court's September 1, 2017 Preliminary Injunction with
4 Asset Freeze, Appointment of Receiver, and Other Equitable Relief as to
5 Defendants Blair McNea, Jennifer Johnson, and Entity Defendants ("Order").

6 2. On September 8, 2017, the Corporate Defendants filed the Motion.

7 3. On September 10, 2017, this Court entered its Order Setting Briefing
8 Schedule.

9 4. In accordance with the Court's September 10, 2017 order, the Receiver
10 provides his response to the Motion.

11 5. As this Court is aware, the Receiver was appointed Temporary
12 Receiver on July 25, 2017, and he was appointed Permanent Receiver on September
13 1, 2017.

14 6. In order to be prepared to immediately assume his duties, the Receiver
15 retained the services of attorneys and accountants to assist in the administration of
16 the receivership estate. Specifically, the Receiver retained Ervin Cohen & Jessup
17 LLP ("ECJ") and Kolesar & Leatham as his attorneys, and Grobstein Teeple LLP
18 ("Grobstein") as his accountants.

19 7. On August 22, 2017, the Receiver, with the assistance of ECJ and
20 Grobstein, filed his summary report which provided this Court and all parties with a
21 detailed summary of his efforts to date, and initial findings.

22 8. While the Receiver has established procedures for the administration of
23 the receivership estate, substantial fees and costs have and will continue to be
24 incurred by the Receiver, his attorneys and accountants. In addition, and as set forth
25 in the Receiver's August 22, 2017 summary report, one of the Corporate Defendants
26 continues to operate with the Receiver's oversight and control. Obviously, there are
27 administrative costs that are incurred while the business continues to operate, and
28 administrative costs related to the operations of the other Corporate Defendants that

1 are no longer operating. Also, and while this Court has entered orders approving
2 stipulations that authorized the Receiver to vacate the Henderson, Nevada and
3 Louisville, Colorado premises, the Receiver anticipates that administrative claims
4 for rent and related expenses will be submitted by the landlords of both locations.
5 Further, the Receiver expects that former employees of the Corporate Defendants,
6 vendors, and creditors, will submit claims for goods or services provided after his
7 appointment.

8 9. All of the fees, costs, and expenses incurred by the Receiver after his
9 appointment are entitled to be paid as a priority from the funds in the receivership
10 estate. Clark on Receivers §637. Since this matter is still in its early stages the
11 Receiver does not know if he will accumulate sufficient funds to fully satisfy the
12 administrative expenses of the receivership estate and potential remuneration to
13 consumers who purchased products from the Corporate Defendants.

14 10. In the Motion the Corporate Defendants request “a monthly allowance
15 in the amount of \$30,000 for attorneys’ fees to defend themselves in this case. In
16 addition, the Corporate Defendants request that attorneys’ fees incurred in
17 connection with the TRO and preliminary injunction phase of this case also be paid.
18 This amounts to \$36,700.”

19 11. The Receiver has prepared this response to advise the Court of the
20 following:

21 a. The Motion requests a monthly allowance of \$30,000.00 for an
22 indefinite period of time;

23 b. To the extent that any amount is ordered to be released to pay
24 attorneys’ fees of the Corporate Defendants, the administrative claimants of
25 the receivership estate and consumers of products purchased from the
26 Corporate Defendants will be affected as it is uncertain at this time if
27 sufficient funds will be available to fully satisfy those claims;

28 c. To release any money to pay attorneys’ fees of the Corporate

1 Defendants would subordinate the administrative expenses of the receivership
2 estate which is contrary to established receivership law; and

3 d. To release any money to pay attorney's fees of the Corporate
4 Defendants will reduce the amount of funds that are available for distribution
5 to the consumers for whose benefit this case was filed. In fact, section
6 XIV.K. of the Order directs and authorizes the Receiver to "prevent the
7 inequitable distribution of Assets and determine, adjust, and protect the
8 interests of consumers who have transaction business with the Receivership
9 Entities."

10 DATED: September 18, 2017

Respectfully submitted,

ERVIN COHEN & JESSUP LLP

13 By: /s/ Byron Z. Moldo
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15 Attorneys for Joshua Teeple,
16 Permanent Receiver
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ERVIN COHEN & JESSUP LLP

CERTIFICATE OF SERVICE**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 9401 Wilshire Boulevard, Ninth Floor, Beverly Hills, CA 90212-2974.

On September 18, 2017, I served true copies of the following document(s) described as **RESPONSE OF JOSHUA TEEPLE, PERMANENT RECEIVER, TO CORPORATE DEFENDANTS' EMERGENCY MOTION FOR LIMITED MODIFICATION OF ASSET FREEZE TO PERMIT ACCESS TO FUNDS FOR ATTORNEYS' FEES** on the interested parties in this action as follows:

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BY CM/ECF NOTICE OF ELECTRONIC FILING: I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on September 18, 2017, at Beverly Hills, California.

/s/ Lore Pekarul

Lore Pekarul